

Flathead County

Planning & Zoning

1035 1st Ave W, Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210



PETITION FOR ZONING AMENDMENT

Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.

FEE ATTACHED \$ 1882.00 + 75.00

OWNER:

1. Name: Jump Reserve Properties Phone: _____
2. Mail Address: 687 Scenic Drive
3. City/State/Zip: Kalispell, MT 59901
- 4 Interest in property (if map amendment): Owner

APPLICANT

1. Name: NW Dev Group LLC Phone: (503)260-4484
2. Mail Address: P.O. Box 1038
3. City/State/Zip: Kalispell, MT 59903
- 4 Interest in property (if map amendment): Applicant

Check which applies:



Map Amendment



Text Amendment:

TECHNICAL/PROFESSIONAL PARTICIPANTS:

1. Name: Sands Surveying Inc. Phone: (406) 755-6481
2. Mailing Address: 2 Village Loop
3. City, State, Zip: Kalispell, MT 59901
4. Email: eric@sandssurveying.com

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE TEXT OF THE ZONING REGULATIONS, PLEASE COMPLETE THE FOLLOWING:

- A. What is the proposed zoning text amendment? N/A

IF THE REQUEST PERTAINS TO AN AMENDMENT TO THE ZONING MAP PLEASE COMPLETE THE FOLLOWING:

- A. Address of the property: 2655 US Highway 2, Kalispell

- B. Legal Description: A portion of Tract 7G
(Lot/Block of Subdivision or Tract #)

28 - T29N - R21W
Section Township Range

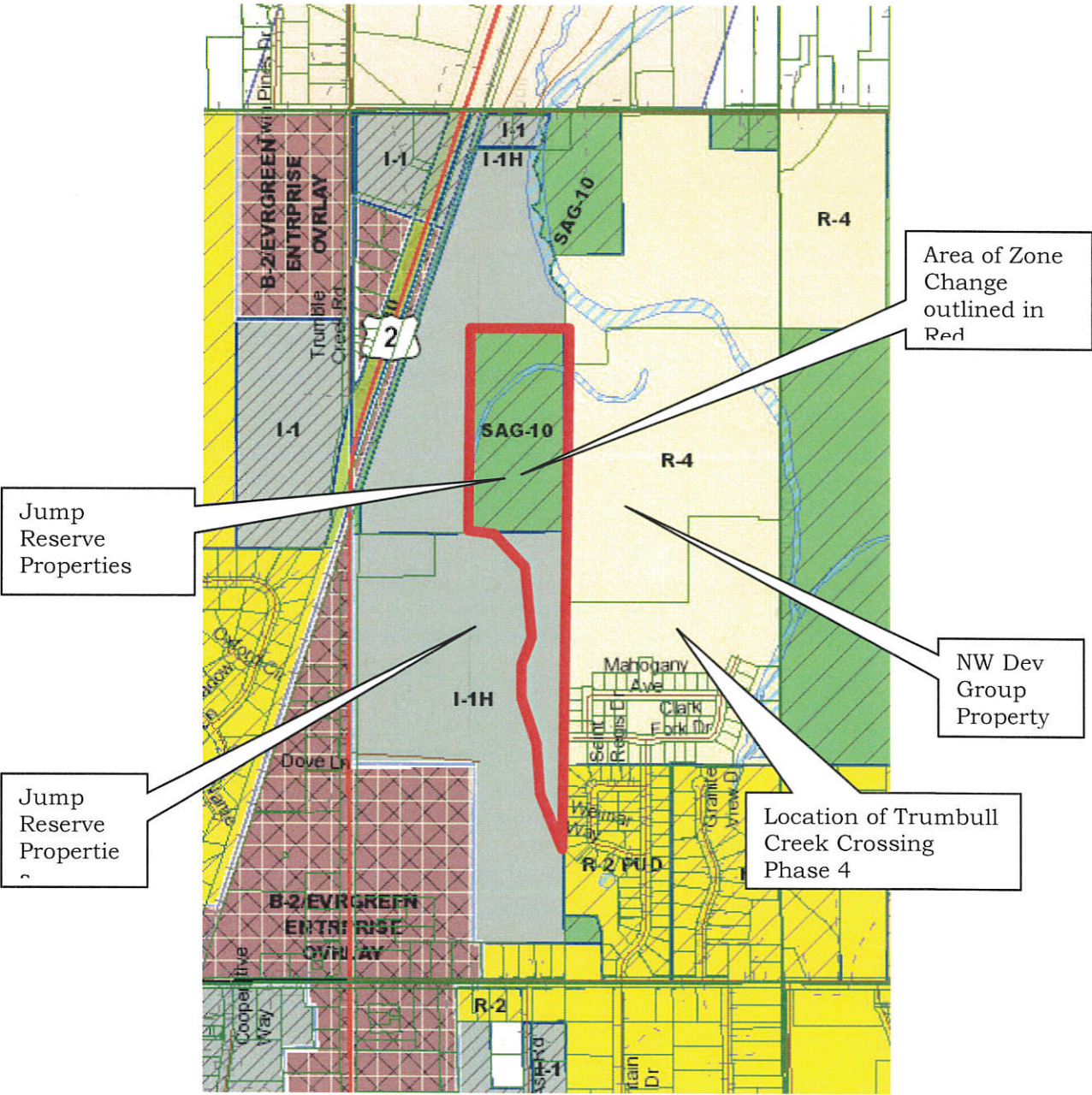
(Attach sheet for metes and bounds) See attached metes and bounds for the two zoning designations Exhibit 1

- C. Total acreage: 29.08 acres.

- D. Zoning District: Evergreen Zoning District
- E. The present zoning of the above property is: SAG-10 Suburban Agricultural) and I-1H (Light Industrial Highway)
- F. The proposed zoning of the above property is: R-4 (Two Family Residential) and I-1H (Light Industrial Highway) – See Exhibit 1
- G. State the changed or changing conditions that make the proposed amendment necessary: NW Dev Group and Jump Reserve Properties have an agreement to make a land swap if the zoning can be amended. NW Dev Group is the developer of Trumbull Creek Crossing, a residential subdivision in its fourth phase and located directly adjacent to the Jumps property. All of the Trumbull Creek Crossing property is zoned R-4 or R-2 (PUD). The Jumps have a large holding of property that mostly zoned I-1H with the exception of approximately 17.5 acres zoned SAG-10. The SAG 10 is completely surrounded by either Industrial zoning or R-4 zoning. The proposed zone change would allow NW Dev Group to expand and buffer Trumbull Creek Crossing along the eastern edge of the old creek channel. At the same time the zone change allow the Jump Reserve Properties to move the I-1H zoning to the western edge of the old creek meander which means the Jumps will not develop light industrial uses on the east side of the creek and directly adjacent to a number of homes. The zone change protects both land owners from incompatible land uses adjacent to their current holdings. See Exhibit 1 at the end of the application for a map of the proposed zoning designations and Figure 1 for the overall area of the zone change.

MAY 12 2020

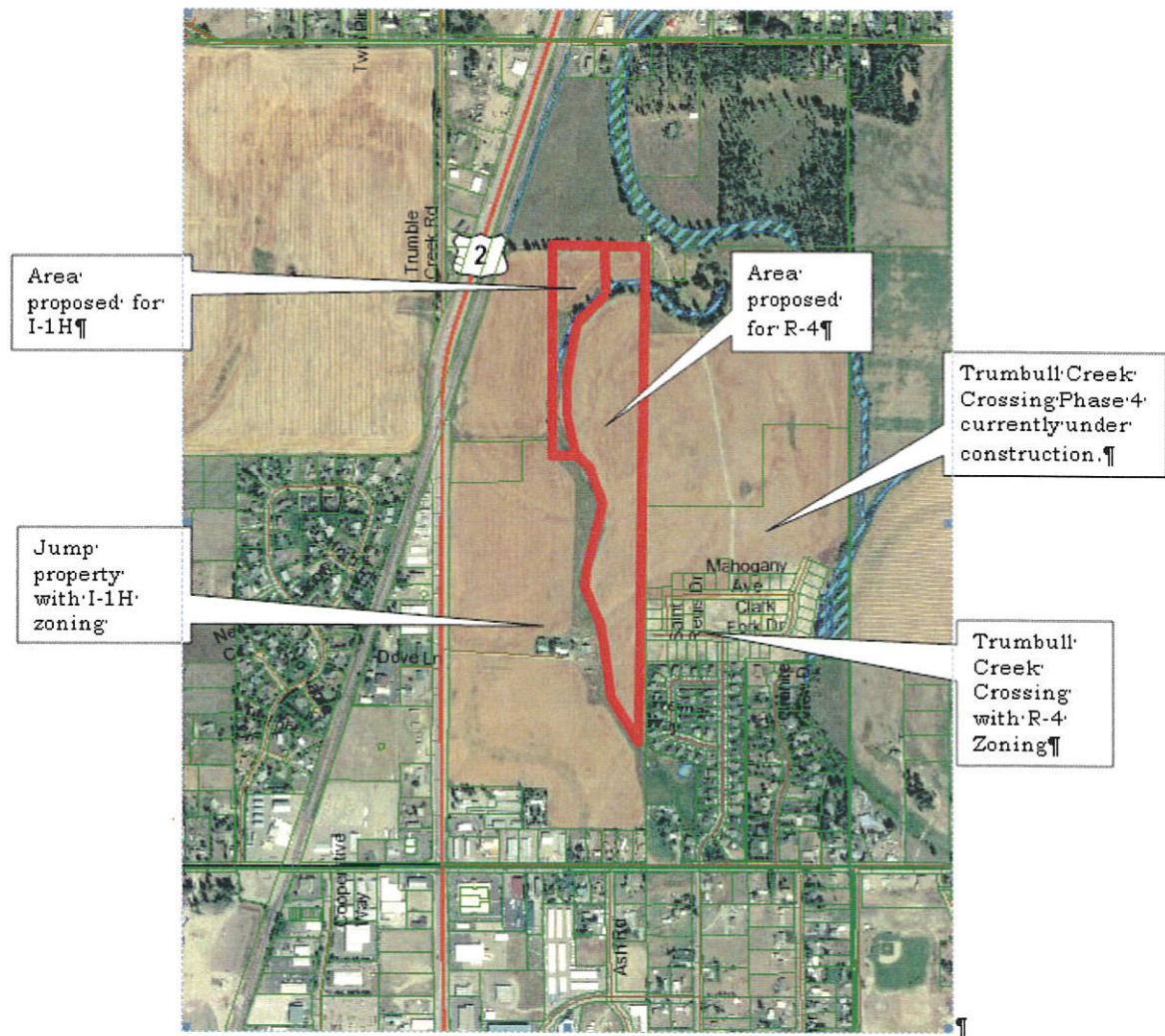
Figure 1 – Existing Zoning



Source: Flathead County GIS, Zoning Layer

MAY 12 2021

Figure 2 – Proposed Zoning



THE FOLLOWING ARE THE CRITERIA BY WHICH ZONING AMENDMENTS ARE REVIEWED. PLEASE PROVIDE A RESPONSE AND DETAILED EXPLANATION FOR EACH CRITERION FOR CONSIDERATION BY THE PLANNING STAFF, PLANNING BOARD, AND COMMISSIONERS.

1. Is the proposed amendment in accordance with the Growth Policy/Neighborhood Plan?

The property is located within the boundary of the Kalispell Master Plan Map 2010 which was adopted in 1986 and the Two River Master Plan (Updated 2012).

The Kalispell Master Plan Map and Plan area was updated in 2015 with the Evergreen Enterprise Commercial Zone. The Update/Addendum primarily dealt with the commercial areas of Evergreen and created the mechanism to integrate light industrial with the commercial use. Even the updated map of 2015 did

not reflect the current zoning or land use patterns approved for this part of Evergreen. Trumbull Creek Crossing received zone changes, PUD approvals, and subdivision approvals to develop a nice residential neighborhood with urban amenities. Industrial zoning was extended along the Highway to the intersection of Rose Crossing largely due to the rail access and proximity to Highway 2

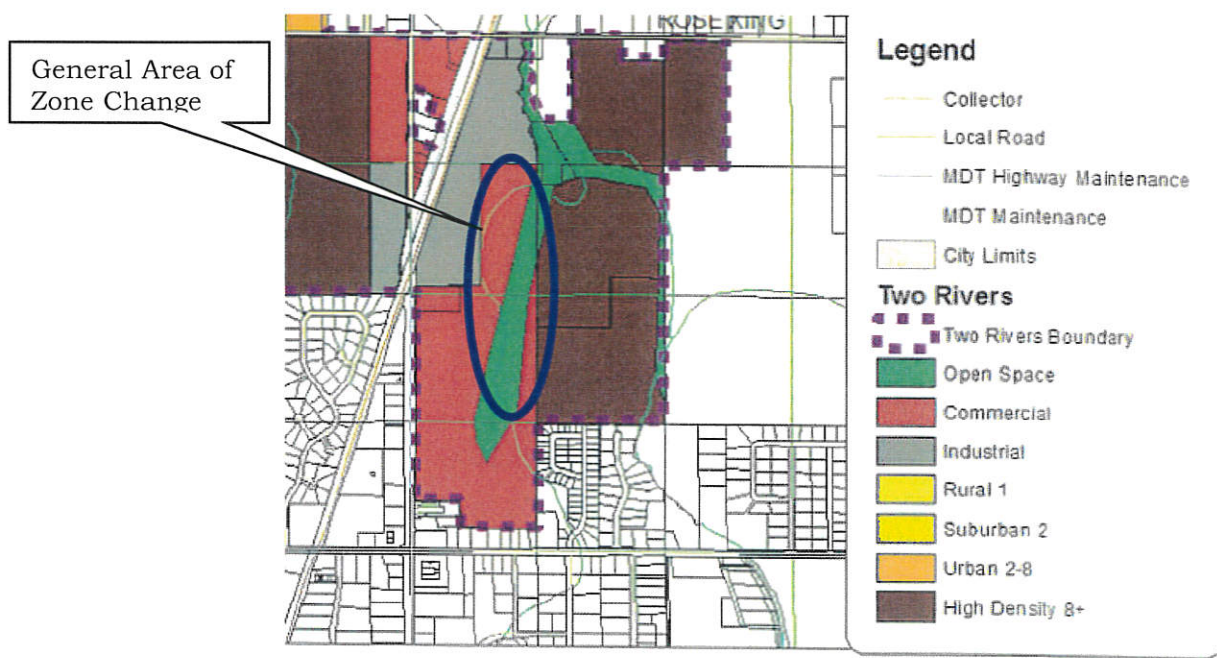
When the Kalispell Master Plan was adopted in 1986, all of Evergreen was on septic systems and only a small area was on Public water. The Evergreen fire district at the time was an all-volunteer department. Much of the commercial area north of K-Mart was residential or logging industry related.

Since that time, public water and sewer has been extended throughout much of Evergreen and particularly Trumbull Creek Crossing. Evergreen Fire is now a staffed Fire District. Commercial use has extended to the Reserve Drive Intersection of Highway 2 and Highway 2 was expanded from a 2 lane highway to a four lane highway.

As the property is in the old Kalispell Master Plan area, I contacted Jarod Nygren, Planning Director for the City of Kalispell. Mr. Nygren stated that he did not have any comment on the zone change as it is not in the City's annexation policy area.

The Two Rivers Plan designates the subject lands as Commercial with Open Space/Park. The Two Rivers Plan promotes urban expansion and development along with the urban services to support the more intensive land use. The plan promotes development standards compatible with the City of Kalispell's Standards and setting aside of sensitive lands as parks/open space. The Trumbull Creek Crossing project which is adjacent to the subject zone change has set aside park areas along the creek and drainage that run through the development. The Trumbull Creek Crossing subdivision has also developed to an urban standard with curbs, gutters, and sidewalks. As Trumbull Creek Crossing expands and the Jump property eventually develops, these projects will be reviewed for implementation of the policies of the Two Rivers Plan

Figure 3 - Kalispell Master Plan Map Year 2010 with Evergreen Enterprise Zone and the Two Rivers Plan Map



2. Is the proposed amendment designed to:

- a. Secure safety from fire and other dangers? The proposed action of the zone change will neither increase nor reduce the dangers of fire, panic, or other hazards. When the property is developed they will most likely need to secure a subdivision review for the density and at that time more details would be known about the landuse, access, etc.

The property is within the Evergreen Fire District, has access to the Evergreen Water system which provides fire flow to the systems hydrants. The property is not within the Wildland Urban Interface. The property is served by Flathead County Sheriff's Office for police protection.

The old creek channel is within the 100-year floodplain however any development and or subdivision would locate outside of the floodplain similar to Trumbull Creek Crossing in phases 1, 2, & 3.

- b. Promote public health, public safety and the general welfare? The property is accessed by the Trumbull Creek Crossing development on the east side of the old creek channel and by the existing driveway approach on Highway 2 for the west side of the creek. The Flathead County Sheriff's Office provides police protection to Evergreen. The Evergreen Fire District provides fire service to the property. The property is served by Evergreen Water and Sewer infrastructure.

The proposed R-4 and I-1H zoning designations are better aligned with the adjacent zoning and land use that surrounds the property (Figure 1 and 3). The property to the east is already zoned R-4 and the property to the west is zoned I-1H. The proposed zone change will promote health, safety and welfare of the public by establishing a zone that better aligns with adjacent land use and will now uses a natural land feature as the boundary between the two zones.

- c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements? If the zone change is approved the Jumps and NW DEV Group will file a Boundary Line Adjustment so that the Jumps own the all property on the west side of the creek bottom and NW Dev owns all the property on the east side of the creek bottom. The east side property will be accessed through the Trumbull Creek Crossing Development. The West side property will be accessed through the Jump access on Highway 2.

The property is within the Evergreen/Flathead School District. Depending on what the applicant does with the R-4 lands in the future would dictate the potential number of school aged children. The development of the Industrial property will not add school children to the district but will add significant tax revenue to the district. Any subdivision of the property would require addition review and approval through the governing bodies.

At present the property is vacant, future development plans will dictate whether or not park lands or cash-in-lieu payments are dedicated to the County. The Trumbull Creek Crossing property has developed parks and open space as part of the subdivision.

3. Does the proposed amendment consider:

- a. The reasonable provision of adequate light and air? The proposed R-4 and I-1H zoning classifications are identical to the adjacent zoning classification. Therefore the setbacks and height limits of the proposed zoning will match those of the neighboring property. The proposed zoning will provide reasonable provisions for light and air.
- b. The effect on motorized and non-motorized transportation systems? A major reason for the zone change proposal it to address potential impacts from traffic. With the current land ownership pattern and zoning, should the Jumps develop the I-1H lands on the east side of the creek truck traffic would flow through the residential subdivision for access or bridges would need to be developed to cross the creek. With the zoning and land swap, NW DEV Group trades all of its lands on the west side of

the creek to the Jumps and the Jumps trade all of their lands on the east side of the creek to NW Dev Group. The Jumps already have access from highway 2 into their industrial lands on the west side of the creek. NW Dev has access to the residential lands on the east side of the creek from East Reserve and Rose Crossing. The proposed zone change facilitates appropriate access for the appropriate land use.

- c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities? The subject property is located approximately 1.1 miles from the Kalispell City limits. The Community of Evergreen is an unincorporated extension of Kalispell in that the commerce, schools, wastewater utilities, transportation routes move between the two entities in a seamless fashion. The proposed urban residential R-4 and industrial I-1H zoning classifications are compatible with neighboring urban densities and land use.
- d. The character of the district and its peculiar suitability for particular uses? The area around the subject parcel includes the Trumbull Creek Crossing Phases 1 – 4. Phases 1 – 3 are complete and Phase 4 is under construction. The Jump land is mostly undeveloped but has had the Light Industrial zoning for many years

Photo 1



Adjacent Trumbull Creek
Crossing Development

Photo 2



Photo 3



Jump Reserve Properties
LLC

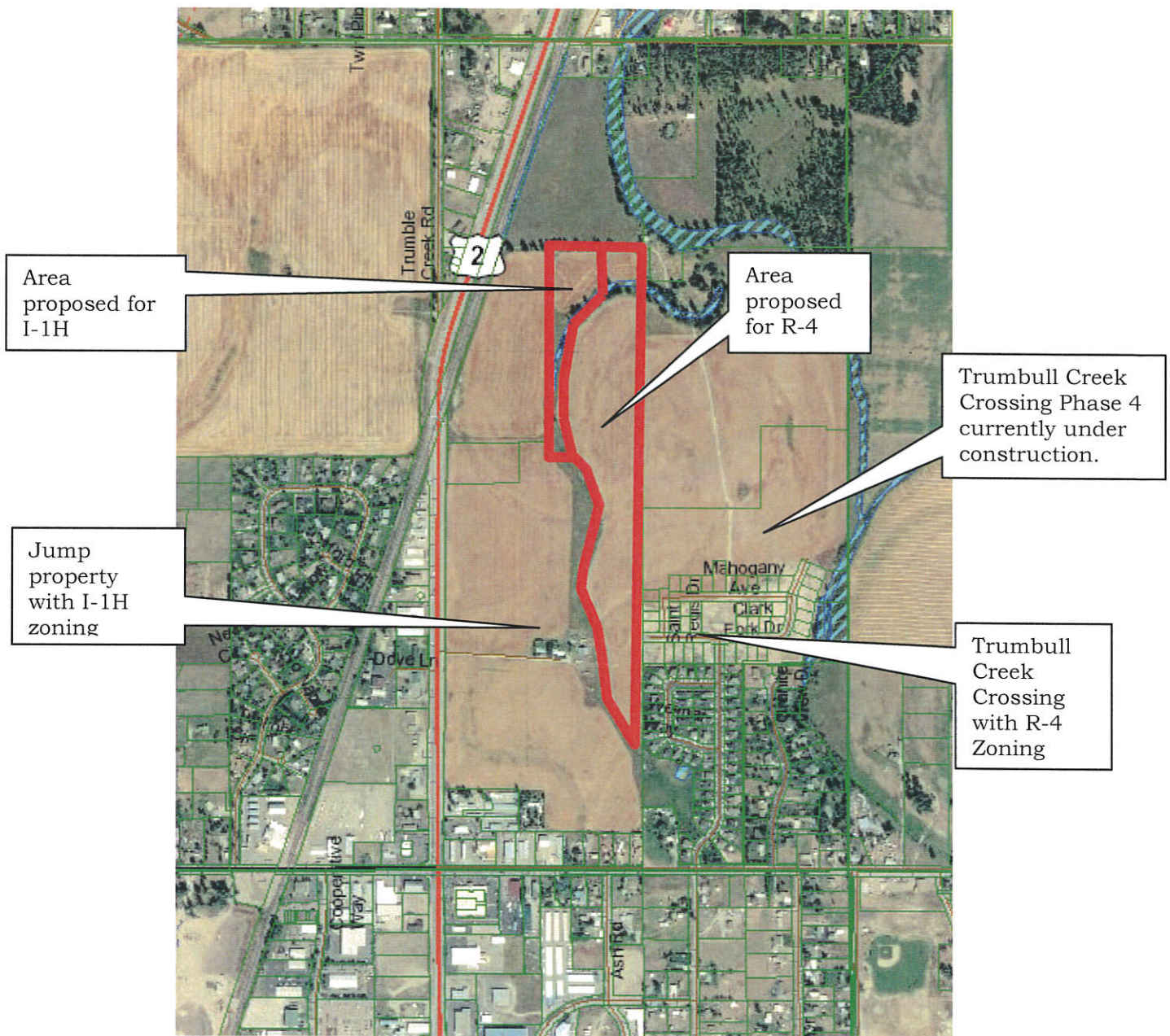


Figure 4 - Source: Flathead County GIS – Imagery base layer circa 2013

Considering the provisions of Spot Zoning and the “Three Part Test” as provided by legal precedent in Little vs. Board of County Commissioners. Spot Zoning is determined by the Court to be an illegal action if the request is found to meet **all** three of the tests. The three tests are as follows:

- i. *The zoning allows a use that differs significantly from the prevailing use in the area.*

Adjacent zoning consist of I-1H, R-4 and R-2 PUD. The proposed change from I-1H and SAG-10 is the same or very similar to

12/12/2017

adjacent zoning designations. Much of the neighboring R-4 is slated for existing and future of Trumbull Creek Crossing. Much of the adjacent I-1H is already part of the Jump holding. The proposed zoning is consistent with neighboring zoning and land use.

- ii. The zoning applies to a small area or benefits a small number of separate landowners.

The proposed zone change applies to approximately 29 acres of which approximately 12 acres is I-1H and the other 17 acres is SAG-10. The subject zone change adjoins approximately 77 acres of I-1H and 121 acres of R-4. The zoning will match that of neighboring lands and is not a small area.

- iii. The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and this is in the nature of special legislation.

The application is at the request of two landowners, however, adjacent lands have the same zoning classification as what is requested. The zone change will not grant a special benefit but will provide consistency to all of the lots owners in Phases 1, 2, & 3 of Trumbull Creek Crossing. The proposed amendment will move the zoning and future lot boundaries to a natural feature, the old creek channel, that will buffer the industrial use from the urban residential use.

As presented the proposed zone change application does not meet the three tests for "spot zoning" and therefore should be considered a legal request.

- e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area? As stated previously, the intent of this zoning change amendment is to line up zoning with the creek boundary which provides a natural buffer between the light industrial zoning on the west and the urban residential use on the east. It also removes an island of SAG-10 zoning which has nothing in

common with the neighboring industrial and residential use. Therefore the proposed zone change should conserve the value of existing buildings and those of future development.

4. Is the proposed amendment, as nearly as possible, compatible with the zoning ordinances of nearby municipalities?

The subject property is located approximately one of a mile east of the nearest Kalispell City Limits boundary which is the Glacier Village Greens golf course community. The proposed zoning is consistent with urban zoning of the City of Kalispell. Lastly, Jarod Nygren, Planning Director for the City of Kalispell was consulted on the proposed zone change on April 7, 2020 by telephone. Mr. Nygren stated that he had no comment as this property falls outside of the City future annexation boundary.

The signing of this application signifies approval for the Flathead County Planning & Zoning staff to be present on the property for routine monitoring and inspection during approval process.

Kirsty Permutt, G.P.
Owner/Applicant Signature(s)

5-5-2020
Date

DESCRIPTION:

TWO TRACTS OF LAND, SITUATED, LYING AND BEING IN THE WEST HALF OF THE EAST HALF OF SECTION 28, TOWNSHIP 29 NORTH, RANGE 21 WEST, P.M.,M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

PARCEL '1': (Being changed from SAG-10 zoning to I-1H zoning)

Commencing at the northeast corner of the Southwest Quarter of the Northeast Quarter of Section 28, Township 29 North, Range 21 West, P.M.,M., Flathead County, Montana, which is a found aluminum cap; Thence along the north boundary of said SW1/4NE1/4 S89°45'25"W 219.22 feet to THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBE: Thence S00°01'00"E 315.54 feet; Thence S55°38'45"W 73.66 feet; Thence S45°03'38"W 236.49 feet; Thence S15°36'05"W 76.97 feet; Thence S20°51'15"W 151.52 feet; Thence S07°45'23"W 307.06 feet; Thence S07°35'22"E 70.85 feet; Thence S27°01'38"E 201.66 feet; Thence S14°02'18"E 31.41 feet; Thence S89°39'25"W 124.00 feet; Thence N00°00'57"W 1323.70 feet to the north boundary of said SW1/4NE1/4; Thence along said boundary N89°45'25"E 359.95 feet to the point of beginning and containing 4.883 ACRES; Subject to and together with all appurtenant easements of record.

PARCEL '2': (Being changed from SAG-10 & I-1H zoning to R-4 zoning)

BEGINNING at the northeast corner of the Southwest Quarter of the Northeast Quarter of Section 28, Township 29 North, Range 21 West, P.M.,M., Flathead County, Montana, which is a found aluminum cap; Thence along the east boundary of said SW1/4NE1/4 S00°01'00"E 1322.69 feet to a found aluminum cap and the southeast corner thereof; Thence along the east boundary of the Northwest Quarter of the Southeast Quarter of said Section 28 S00°02'02"E 1318.83 feet to a found iron pin and the southeast corner thereof; Thence along the east boundary of the Southwest Quarter of the Southeast Quarter of said Section 28 S00°01'04"E 534.00 feet; Thence N49°44'08"W 81.87 feet; Thence N29°46'13"W 218.38 feet; Thence N19°33'22"W 108.61 feet; Thence N06°51'36"W 266.48 feet; Thence N08°13'03"W 86.64 feet; Thence N30°39'17"W 182.35 feet; Thence N15°21'44"W 105.32 feet; Thence N07°35'14"W 83.39 feet; Thence N18°23'13"E 240.10 feet; Thence N17°04'25"E 130.91 feet; Thence N03°21'06"E 38.50 feet; Thence N11°53'15"W 236.63 feet; Thence N20°25'41"W 73.92 feet; Thence N39°22'45"W 107.46 feet; Thence N55°41'50"W 53.77 feet; Thence N14°02'18"W 39.94 feet; Thence N27°01'38"W 201.66 feet; Thence N07°35'22"W 70.85 feet; Thence N07°45'23"E 307.06 feet; Thence N20°51'15"E 151.52 feet; Thence N15°36'05"E 76.97 feet; Thence N45°03'38"E 236.49 feet; Thence N55°38'45"E 73.66 feet; Thence N00°01'00"W 315.54 feet; Thence N89°45'25"E 219.22 feet to the point of beginning and containing 24.207 ACRES; Subject to and together with all appurtenant easements of record.

APPLICATION PROCESS

APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A pre-application meeting is highly recommended. This can be scheduled at no cost by contacting the Planning & Zoning office. Among topics to be discussed are: Master Plan compatibility with the application, compatibility of proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application.

C. Application fee.

D. The application must be accepted as complete by the Flathead County Planning & Zoning staff prior to the date of the planning board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled.

APPLICABLE TO APPLICATIONS FOR ZONE CHANGE:

A. Application Contents:

1. Completed Zone Change application, including signatures of all property owners applying for zoning map amendment.

IF this is a **MAP** amendment the following are also required:

- i) A map showing the location and boundaries of the property (*vicinity map*).
- ii) A Title Report of the subject property
- iii) **Certified** Adjoining Property Owners List must be submitted with the application (*see forms below*). The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.